

STANDARD APPLICATION
Harford County
Board of Appeals
Bel Air, Maryland 21014

JUL 12 2007

Case No. 5614
Date Filed 7/6/07
Hearing Date _____
Receipt _____
Fee \$450.00

Shaded Areas for Office Use Only

Type of Application

Nature of Request and Section(s) of Code

- ☐ Administrative Decision/Interpretation
☐ Special Exception
☐ Use Variance
☐ Change/Extension of Non-Conforming Use
☐ Minor Area Variance
☐ Area Variance
☒ Variance from Requirements of the Code
☐ Zoning Map/Drafting Correction

CASE 5614 MAP 64 TYPE Variance

ELECTION DISTRICT 01 LOCATION 3425 Henry Harford Drive, Abingdon 21009

BY Anthony Graber, Jr

Appealed because a variance pursuant to Sec. 267-26C (6) of the Harford County Code to allow a pool to be located within a recorded easement in the R2 district with NRD adjustment requires approval by the Board.

NOTE: A pre-conference is required for property within the NRD/Critical Area or requests for an Integrated Community Shopping Center, a Planned Residential Development, mobile home park and Special Exceptions.

Owner (please print or type)

Name Anthony J Graber Jr Phone Number (410) 538-7742
Address 3425 Henry Harford Dr Abingdon MD 21009
Street Number Street City State Zip Code

Co-Applicant _____ Phone Number _____
Address _____
Street Number Street City State Zip Code

Contract Purchaser _____ Phone Number _____
Address _____
Street Number Street City State Zip Code

Attorney/Representative _____ Phone Number _____
Address _____
Street Number Street City State Zip Code

Land Description

Address and Location of Property 3425 Henry Harford Dr

Subdivision 1128 Lot Number 64

Acreage/Lot Size _____ Election District 01 Zoning R2

Tax Map No. 62 Grid No. 3B Parcel 862 Water/Sewer: Private _____ Public _____

List ALL structures on property and current use: _____

Estimated time required to present case: 30 minutes

If this Appeal is in reference to a Building Permit, state number _____

Would approval of this petition violate the covenants and restrictions for your property? _____

Is this property located within the County's Chesapeake Bay Critical Area? Yes _____ No ☒

If so, what is the Critical Area Land Use designations: _____

Is this request the result of a zoning enforcement investigation? Yes _____ No ☒

Is this request within one (1) mile of any incorporated town limits? Yes _____ No ☒

Request

Board to approve the waiver of the easement from the Department of Public Works. This will allow me to manage the water in my back yard and to place a retaining wall and swimming pool.

Justification

When purchasing the property and house from General the Subperson assured me that I was able to put a pool in my yard. I have done the research and feel that with the retaining wall and Pool and managing the water through an underground water drainage, there will be no difference in drainage.

If additional space is needed, attach sheet to application. In answering the above questions, please refer to the Requirements that pertain to the type of approval request. (Special Exception, Variance, Critical Area or Natural Resource District (NRD) Variance, etc.)

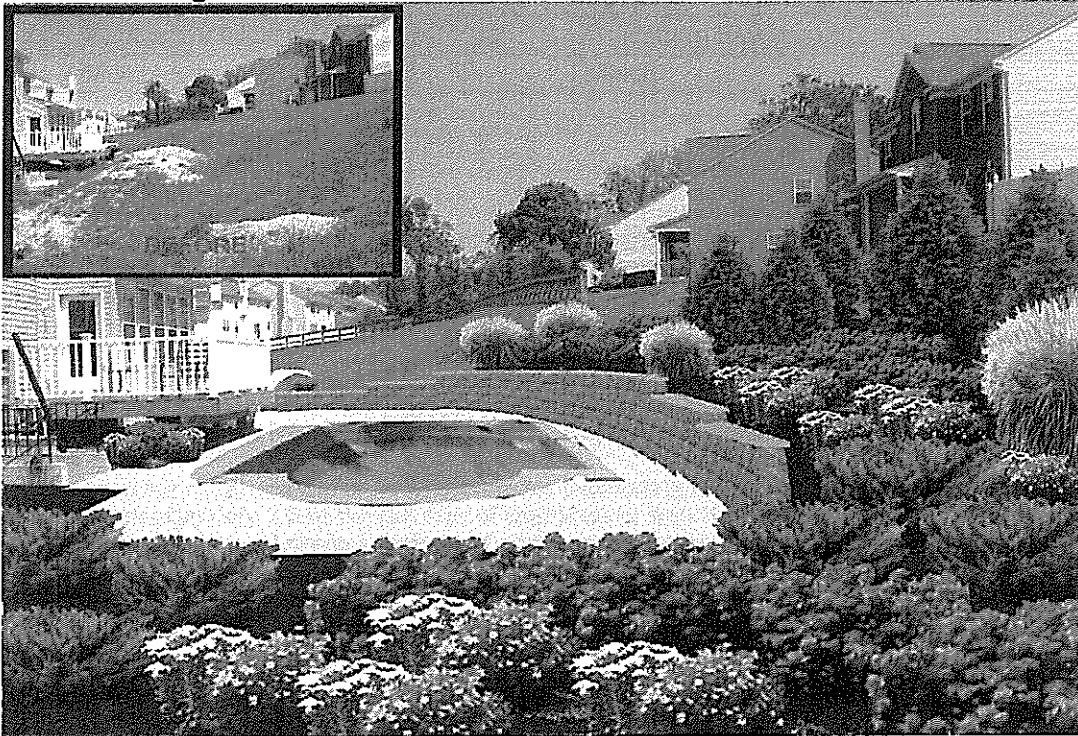
Elliott Landscape Group LLC

**629 Baystone Court
Annapolis, MD 21409
410-349-2410**

Graber Residence **Wall & Drainage Installation Proposal** **May 16, 2007**

The work to be performed at Graber Residence, (Anthony and Melinda Graber, 3425 Henry Harford Drive, Abingdon, MD 21009), shall include all labor, materials, supplies and equipment necessary to provide the following landscape & hardscape installation works:

1. Retaining Wall Installation



Install an 85 linear foot retaining wall using Keystone manufactured, Compaq wall units in tan color. Height of wall will vary from 2' (at left rear corner of house) to 3' above finish grade level along interface with steepest portion of hillside and reduce down to 2' in height toward right rear side of hill, (approximately 278 sq. ft. face area). Wall will be constructed per manufacturer's installation specifications. Wall will be set on a 6" compacted and level layer of CR6 aggregate stone. Rear of wall will contain 4" diameter corrugated perforated drainline encased in a 1' width trench of $\frac{3}{4}$ " drainage stone. Filter cloth will be installed along rear face of wall. Keystone capping units will be installed along entire length of wall (approximately 94 capping units). Note: Plant Material and Mulch is not included in contract.

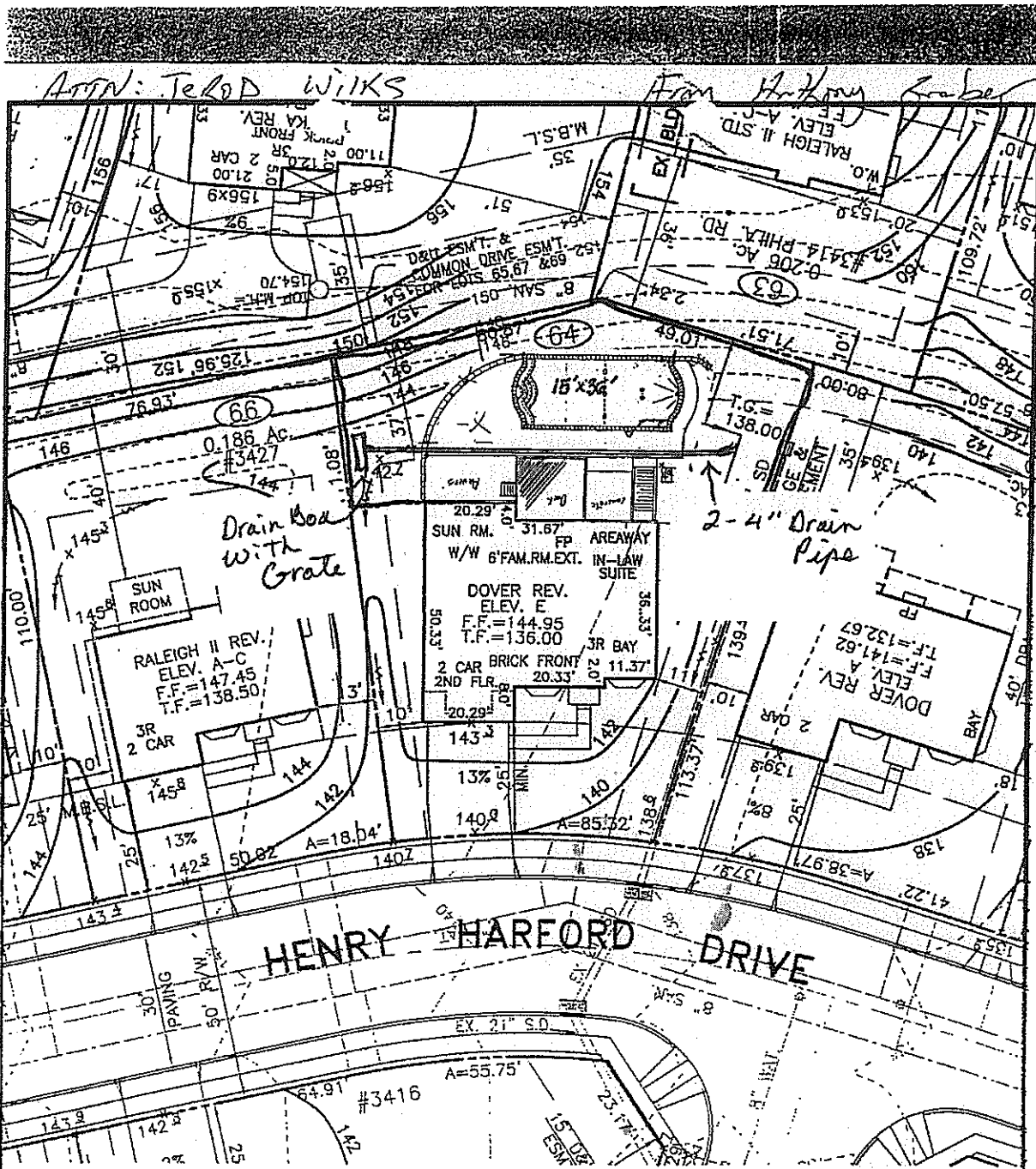
Cost: \$10,976.00 Initial: _____

Cost if Homeowner Purchases & Delivers Wall & Capstone Units: \$7,764.00 Initial: _____

2. Catch Basin and Drainline Installation above Wall

Install two 12" diameter catch basins and 170 linear feet of 4" diameter non-perforated drainline to intercept surface water runoff from existing swale. Drainline will daylight approx 6' beyond concrete pool deck toward

579628



<p>SETBACKS: ZONING R2 W/NRD ADJUSTMENT FRONT YARD: 25' MIN. SIDE YARD: 10' MIN. (20' TOTAL) REAR YARD: 35' MIN.</p>		<p>CALL IN GRD. AT TIME OF STAKEOUT.</p>		<p>BUILDER GEMCRAFT HOMES 138 INDUSTRY LANE FOREST HILL, MARYLAND 21050 PH: 410-893-8458</p>	
<p>MRA MORRIS & RITCHIE ASSOCIATES, INC. ENGINEERS, ARCHITECTS, PLANNERS, SURVEYORS, & LANDSCAPE ARCHITECTS 3445-A Box Hill Corporate Center Drive Abingdon, Maryland 21009 (410) 515-9000 Fax: (410) 515-9002</p>		<p>SITE AND GRADING PLAN FOR POMEROY MANOR LOT 64 #3425 HENRY HARFORD DRIVE ELECT. DIST. 1ST HARFORD CO., MD.</p>			
SCALE: 1"=30'	DATE: MARCH 22, 2004	DRAWN BY: P.B.	DESIGN BY: P.B.	REVIEW BY: D.B.	JOB NO. 13,251

DAVID R. CRAIG
HARFORD COUNTY EXECUTIVE

LORRAINE COSTELLO
DIRECTOR OF ADMINISTRATION



Richard D. Lynch
DIRECTOR, DEPARTMENT OF INSPECTIONS,
LICENSES AND PERMITS

Richard C. Truitt, Sr.
CHIEF, BUILDING SERVICES DIVISION

HARFORD COUNTY GOVERNMENT

Swimming Pool Permit – Conditions of Permit

Date: 6-26-07 Permit Number: _____
Property Owner: Anthony J Greber Jr.
Premises Address: 3425 Henry Harford de Abington rd 21009
(Street Address) (City) (State) (Zip)

As a condition of permit issuance for a swimming pool to be constructed in Harford County, it shall be the responsibility of the permit applicant to notify the contractor and the property owner of the Building Code and Electrical Code requirements. The permit applicant also has the responsibility of informing the contractor and the property owner of the penalties as outlined for failing to obtain a Certificate of Occupancy for this project. As permit applicant, I:

1. Received a copy of the Code requirements for swimming pools as outlined in Appendix G of the 2003 International Residential Code as adopted by Harford County.
2. Received a copy of the Electrical Code requirements for permanent wiring of pool pump motors as adopted by the Harford County Electrical Code.
3. Shall provide a safety barrier for the pool as required by Appendix G of the 2003 International Residential Code on or before the pool is filled with water exceeding a depth of 24".
4. Shall obtain all required inspections and final approvals from the Building Services and Electrical Services Divisions.
5. Shall obtain a Certificate of Occupancy as required by Section 110 of the 2003 International Building Code as adopted by Harford County prior to use of the structure and within the time frames set by Section 105.5 of the 2003 International Building Code as adopted by Harford County for the validity of a Permit.

Failure to obtain a required electrical permit for the wiring of a pool pump motor, obtain an issued Certificate of Occupancy or allow a swimming pool to be constructed without the benefit of the required barrier being provided as defined by Appendix G of the 2003 International Residential Code may result in one and or all of the following actions to be taken.

1. The withholding of all future permits for this property and/or the contractor as provided for by Section 105.6.1 of the Harford County Building Code.
2. The assessment of administrative fees in accordance with Section 157-16D of the Harford County Code of not less than \$250 for use of a structure without a Certificate of Occupancy being issued.
3. Issuance of a formal Notice of Violation to the property owner as provided for by Section 113 of the 2003 International Building Code as adopted by Harford County, for use of a structure without a Certificate of Occupancy being issued and or not providing the required safety barrier.
 - a. Failure to properly address an issued Notice of Violation may result in action to be taken through the District Court System of Maryland.
 - b. All violations of the Harford County Building Code shall be prosecuted as a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000) or by imprisonment not exceeding ninety (90) days, or by both such fine and imprisonment. Each day that a violation is allowed to exist shall be deemed a separate offense.

I Anthony J Greber acknowledge that I have read and understand the requirements set forth in
(Permit applicant. Please Print)
this Document and shall comply with said requirements.

[Signature]
Signature of applicant

6-26-07
(Date)

Preserving Harford's past; promoting Harford's future
(410) 638-3366

DAVID R. CRAIG
HARFORD COUNTY EXECUTIVE

LORRAINE COSTELLO
DIRECTOR OF ADMINISTRATION



ROBERT B. COOPER, P.E.
DIRECTOR OF PUBLIC WORKS

H. HUDSON MYERS, III, P.E.
DEPUTY DIRECTOR OF PUBLIC WORKS

HARFORD COUNTY GOVERNMENT

DEPARTMENT OF PUBLIC WORKS DIVISION OF ENGINEERING AND CONSTRUCTION

April 30, 2007

Mr. Graber
3425 Henry Harford Drive
Abingdon, MD 21009

Re: Placing Structures in Easement

Dear Mr. Graber:

In response to your e-mail request of April 25, 2007, that you be allowed to construct a retaining wall and in-ground pool partially within the drainage and utility easement located parallel to the rear property line of your yard. This easement extends into your yard a variable distance ranging from 20 feet to approximately 32 feet. Based on the information you included with your e-mail request, previously made site visits by me and investigations of construction drawings for Pomeroy Manor, the Department of Public Works approves your request to place your proposed retaining wall and pool as described above and as shown on plat plan which you provided with your e-mail request.

As a condition of this approval and as a condition of your required building permit, you will convey the side yard drainage coming to your property from 3427 and 3429 Henry Harford Drive through your improvements in a manner to not restrict normal drainage flow (which you appear to have done by the installation of an inlet on your northern property line connected to 2-4" plastic drainage lines which discharge to the throat opening of the developer installed storm drain inlet on the southern portion of your yard). This drainage must be maintained by you so that positive drainage is provided to the upslope property owners to this storm drain inlet. Additionally, if the pool and proposed retaining wall are shown to contribute to any drainage problems in the future, corrective action on your part and at your cost will be required to correct the drainage concerns.

Finally, as previously stated, you will be required to obtain any necessary permits thru Harford County prior to commencing work. You will also need to have this building permit go through the formal easement variance process.

If you have any questions, please contact me at 410-638-3545 ext. 1296.

Sincerely,

A handwritten signature in black ink, appearing to read "Nelson D. Allen, Jr.", is written over a horizontal line.

Nelson D. Allen, Jr.
Engineering Associate

cc. Michael L. Rist, P. E., Civil Engineer
Cheryl Banigan, P. E., Traffic & Transportation

(g/nda/graberpoll&walleasementrequest)

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212 SOUTH BOND STREET, 3rd FLOOR, BEL AIR, MARYLAND 21014 • www.harfordcountymd.gov
PHONE NUMBER - 410-638-3509

DAVID R. CRAIG
HARFORD COUNTY EXECUTIVE

LORRAINE COSTELLO
DIRECTOR OF ADMINISTRATION



C. PETE GUTWALD
DIRECTOR OF PLANNING & ZONING

HARFORD COUNTY GOVERNMENT

Department of Planning and Zoning

July 19, 2007

STAFF REPORT

BOARD OF APPEALS CASE NO. 5614

APPLICANT/OWNER: Anthony J. Graber Jr.
3425 Henry Harford Drive, Abingdon, Maryland 21009

REPRESENTATIVE: Applicant

LOCATION: 3425 Henry Harford Drive – Pomeroy Manor
Tax Map: 62 / Grid: 3B / Parcel: 862 / Lot: 64
Election District: First (1)

ACREAGE: 0.221 acres

ZONING: R2/Urban Residential District with NRD adjustment

DATE FILED: July 6, 2007

HEARING DATE: September 19, 2007

APPLICANT'S REQUEST and JUSTIFICATION:

Request:

"Board to approve the waiver of the easement from the Department of Public Works. This will allow me to manage the water in my back yard and to place a retaining wall and swimming pool."

Justification:

"When purchasing the property and house from Gemcraft the sales person assured me that I was able to put a pool in my yard. I have done the research and feel that with the retaining wall and

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STAFF REPORT

Board of Appeals Case Number 5614

Anthony Graber, Jr.

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pool and managing the water through underground water drainage, there will be no difference in drainage."

CODE REQUIREMENTS:

The Applicant is requesting a variance pursuant to Section 267-26C(6) of the Harford County Code to allow a pool to be located within a recorded easement in the R2/Urban Residential District with Natural Resource District adjustment.

Section 267-26C(6) of the Harford County Code reads:

- (6) *No accessory use or structure, except fences, shall be located within any recorded easement area.*

LAND USE and ZONING ANALYSIS:

Land Use – Master Plan:

The Applicant's property is situated in the southern end of the County in the community of Abingdon. The lot is part of the Pomeroy Manor subdivision and is situated on the south side of Henry Harford Drive, north of Philadelphia Road. Enclosed with the report is a location map, the Applicant's site plan and a copy of record plat 111-90 (Attachments 1, 2, and 3).

The subject property is located within the Development Envelope. The predominant land use designations in this area are: Low, Medium and High Intensities and Industrial/Employment. The Natural Features Map reflects Stream Systems. The subject property is designated Industrial/Employment which is defined by the 2004 Master Plan as:

Industrial/Employment – Areas of concentrated manufacturing, distribution, technical, research, office, and other activities generally located along major transportation corridors.

Enclosed with the report are copies of portions of the 2004 Land Use Map and the Natural Features Map (Attachments 4, 5 and 6).

Land Use – Existing:

The existing land uses are generally consistent with the intent of the Master Plan. The area contains a mix of residential, commercial and industrial uses. Institutional uses include churches and schools. The topography for the area ranges from rolling to steep especially near the stream valleys. Enclosed with the report is a copy of the aerial photograph and a topography map for the area (Attachments 7 and 8).

STAFF REPORT

Board of Appeals Case Number 5614

Anthony Graber, Jr.

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The Applicant's lot is located on the south side of Henry Harford Drive. The lot is unusually shaped with the front lot line on a curve. The lot has a 7.5 foot easement on the east side, a 10 foot easement on the west side and the easement varies from 20 to 32 feet across the rear of the lot (Attachment 9). Because of the angle of the side lot lines the house had to be located 8 feet behind the building setback line in order to meet the required side yard setbacks and the recorded easements. The topography of the lot rises gently up from the road to the front of the house and then levels off to an area approximately 10 to 12 feet to the rear of the house. From that point the lot rises sharply upward, approximately 10 to 12 feet to the lots adjoining to the rear (lot 63 is the subject of a Board of Appeals Case 5612). Enclosed are site photographs (Attachment 10).

Zoning:

The zoning classifications in the area are consistent with the 2004 Master Plan as well as the existing land uses. Residential zoning ranges from R1 to R4/Urban Residential Districts. Commercial zoning includes B2/Community Business District. The subject property is zoned R2/Urban Residential district as shown on the enclosed copy of the zoning map (Attachment 11).

SUMMARY:

The Applicant is requesting a variance pursuant to Section 267-26C(6) of the Harford County Code to allow a pool to be located within a recorded easement in the R2/Urban Residential District with Natural Resource District adjustment.

Variances of this nature may be approved by the Board of Appeals pursuant to Section 267-11 of the Harford County Code, provided it finds by reason of the uniqueness of the property or topographical conditions that literal enforcement of the Code would result in practical difficulty and undue hardship. Further, the applicant must show that the request will not be substantially detrimental to adjacent properties or will not materially impair the purpose of the Code or the public interest.

Since the proposed variance includes a drainage and utility easement the Department of Public Works (DPW) was requested to review and comment on the proposal. It was determined that the easement across the rear of the property ranges from 20 to 32 feet in depth. DPW will approve the construction of the pool and retaining wall in the easement. The approval is based on several conditions outlined in their letter of April 30, 2007 (Attachment 12).

The following attachments were provided by the Applicant:

1. A signed copy of the Harford County Swimming Pool Permit – Conditions of Permit (Attachment 13).
2. A signed letter of intent for Land Disturbance not to exceed 5,000 square feet (Attachment 14).
3. A copy of the landscaping package with a before site photograph and a computer generated photograph of completed work (Attachment 15).

STAFF REPORT

Board of Appeals Case Number 5614

Anthony Graber, Jr.

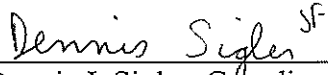
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The Department finds that the subject property is unique based on its configuration and topography. The requested variance will not have an adverse impact on the adjacent properties or the intent of the code.

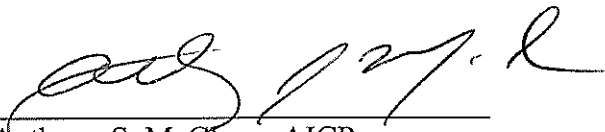
RECOMMENDATION and or SUGGESTED CONDITIONS:

The Department of Planning and Zoning recommends that the requested variance be approved subject to the following conditions:

1. The Applicant shall obtain all necessary permits and inspections for the construction of the pool and retaining wall.
2. The Applicant shall comply with the requirements as outlined in the letter from the Department of Public Works dated April 30, 2007.



Dennis J. Sigler, Coordinator
Zoning & Board of Appeals Review



Anthony S. McClune, AICP
Deputy Director, Planning and Zoning

DJS/ASM/jf